

Request for Council Action

Originator Legal	Item Continued hearing for Burger Burger's liquor license violation.
Agenda Section Licensing	Date 9/12/2016
Description	

On June 8, 2016, while Bloomington Police Officers conducted a detail to enforce the law against liquor sales to underage persons, nine license holders were charged with selling alcohol to operatives who were under 21 years old. On August 15, 2016, all nine liquor license violations were set for hearing before the Bloomington City Council. Burger Burger, LLC was one of the liquor license violations set to be heard on August 15th, but no representative from Burger Burger, LLC appeared. So, the City Council held over the Burger Burger, LLC license hearing to September 12, 2016.

Included in the agenda materials is a signed stipulation of facts from Burger Burger, LLC. That stipulation incorporates and includes the corresponding police report.

Burger Burger, LLC, d/b/a Burger Burger is located at 321 South Avenue, operates with an on-sale liquor license and has no previous violations.

Two votes of the City Council are necessary:

The first vote is to determine if the violation was willful. A license holder willfully commits a violation when a preponderance of the evidence demonstrates that the establishment, through its management and employees, intentionally, knowingly, or purposefully violated any state liquor law or City ordinance relating to the sale of intoxicating liquor, as opposed to carelessly, thoughtlessly or inadvertently violating those laws. A finding of willfulness may be used to support a revocation of the license or create a 5-year period of ineligibility for a liquor license. The City Council may consider all evidence presented at this hearing, including the stipulation, attached police reports and the evidence and arguments provided by the licensee in making this determination.

The second vote is to determine penalty.

- a) If the violation is found to be nonwillful, the City Council has the discretion to impose a fine not to exceed \$2,000, suspend the license for up to 60 days or impose a combination of fine and suspension. For nonwillful violations, generally the City Council has looked back five years in determining penalty. For on-sale and off-sale licensees the penalty has historically been \$1,000.00 for a first violation in five years and \$1,250 for a second violation in five years, and \$2000.00 for a third violation in five years.
- b) If the violation is found to be willful, the City Council may additionally consider revoking the license if it finds that its continuation poses a detriment to the health, safety, welfare or morals of the community.

Item created by: A. Sullivan

Presenters: Doug Junker and Melissa Manderschied

Requested Action

It is recommended that Burger Burger, LLC, d/b/a Burger Burger's violation to be nonwillful and that it be fined \$1,000.00.

Attachments:

Burger Burger Stipulation and Police Report